

EXTRAORDINARY

भाग II-खण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

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नई विल्ली, शुक्रवार, मई 18, 1979/बैशाख 28, 1901

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NEW DELHI, FRIDAY, MAY 18, 1979/VAISAKHA 28, 1901

इस भाग में भिन्न पृष्ठ संख्या थी जाती हैं जिससे कि यह अलग संकलम के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 18th May, 1979:-

BILL No. 69 of 1979

A Bill further to amend the Customs Act 1962, the Gold (Control) Act, 1968 and the Foreign Exchange Regulation Act, 1973.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Customs, Gold (Control) Foreign Exchange Regulation (Amendment) Act, 1979.

Short title and com_ mencement.

(2) It shall come into force at once.

(601)

CHAPTER II

AMENDMENTS TO THE CUSTOMS ACT, 1962

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Jf
sections
100 to
140 and
140A.

2. Sections 100 to 140 and 140A of the Customs Act, 1962 shall be omitted.

52 of 1962,

CHAPTER III

AMENDMENTS TO THE GOLD (CONTROL) ACT, 1968

Omission of sections 50 to 117.

3. Sections 50 to 117 of the Gold (Control) Act, 1968 shall be omitted.

45 of 1968.

CHAPTER IV

AMENDMENTS TO THE FOREIGN EXCHANGE REGULATION ACT, 1973

Omission of sections 34, 35, etc.

4. Sections 34, 35, 36, 37, 38, 39, 40, 41; 45; 46; 47; 48; 50; 51; 52; 53; 54; 56, 57, 59, 60, 61, 62, 63, 64; 67; 68; 71 and 78 of the Foreign Exchange Regulation Act, 1973 shall be omitted.

46 of 1973.

CHAPTER V

Repeal of Customs, Gold (Control) and Central Excises and Salt (Amendment) Act, 1973

Repeal.

5. The Customs, Gold (Control) and Central Excises and Salt (Amendment) Act, 1973 is hereby repealed and shall be deemed to have been repealed from the date when it was first published in the Official Gazette, making all the amendments in the parent Acts to be null and void and of no effect as if this Amendment Act had never been passed.

36 of 1973

From the working of the Customs Act, 1962, the Gold (Control) Act, 1968, the Foreign Exchange Regulation Act, 1973 and the Customs, Gold (Control) and Central Excises and Salt (Amendment) Act, 1973, it has been observed that there was large scale misuse of power and authority for personal ends. The penal provisions under the above Acts were used as tools to harass and victimise innocent persons, while at the same time, real culprits were let off by the authorities. Dual policy and double standard was openly followed and adopted by even the superior statutory authorities and in this way they discriminated between person and person without any proper authority of law. Without there being any prima facie finding, prosecutions were launched in false cases and in this way huge amounts were collected by them during the dark days of emergency. There is no dearth of such cases and there was misuse of power and authority openly and freely.

In this connection, it is worthwhile to mention here the serious observation made by the Chairman of the Committee on Public Undertakings (1978-79) in the Introduction to the 16th Report of the Committee, presented to Lok Sabha on 30-8-1978, as follows:—

"...The inquiries made by the Committee in this regard have revealed many very disquieting features which are not so much due to any flaw in the respective enactments made by Parliament as due to the senior top officials of the Government including those belonging to the Enforcement Department, Central Board of Revenue and Central Board of Excise and Customs all under the Ministry of Finance adopting what appear to be corrupt practices mostly in collusion with habitual big economic offenders".

It is further observed that-

"It is amazing and regrettable to note that maximum penalty was imposed and prosecution was also launched against the then Member of Rajya Sabha during Emergency, just for overstaying in a foreign country, while the professional and veteran economic criminals were allowed to go unpunished. It appears as if the Enforcement Directorate was not meant to detect or prevent economic offences which have serious deliterious effect on the country's economy but more to shield the economic criminals and also to act as a tool for fulfilling personal vendetta and political vindictiveness".

There would be more equality in the application of law and the country would be better governed without these provisions. Hence it is necessary in the public interest that penal laws under the above enactments be repealed.

Hence the Bill.

MANOHAR LAL,

NEW DELHI; March 15, 1979.

BILL No. 65 of 1979

A Bill to amend the Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title and extent.

- 1. (1) This Act may be called the Cigarettes (Regulation of Production, Supply and Distribution) Amendment Act, 1979.
 - (2) It extends to the whole of India.

Substitution of section 5. 2. For section 5 of the Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

49 of 1975.

Restriction on advertisements of cigarettes.

- "5. (1) No person shall advertise for the distribution, sale or supply of cigarettes, and no person shall take part in the publication of any such advertisement.
- (2) No person shall, whether directly or indirectly, import, for the purpose of carrying on any trade or commerce in cigarettes, any document, article or thing, containing any advertisement.".
- 3. In section 6 of the principal Act,—
- (a) in sub-section (1), the words "or in any advertisement relating to such package" shall be omitted;
- (b) in sub-section (2), the words "or any advertisement relating thereto" shall be omitted.

Amendment of section 6.

Cigarette smoking is a grave health hazard. Researches carried out in various parts of the world have confirmed that there is relationship between cigarette smoking and serious diseases like lung and mouth cancer, chronic bronchitis, heart and arteries ailments. The young people are taking to cigarette smoking in a big way. They are taken in by the tantalizing advertisements in newspapers, journals and mass media. It is, therefore, in public interest to do away with such advertisements.

Hence this Bill.

NEW DELHI;

LAXMINARAYAN PANDEY.

March 29, 1979.

BILL No. 73 of 1979

A Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title and commencement.

- 1. (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1979.
 - (2) It shall come into force at once.

Amendment of Section 1. 2. In section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, in sub-section (3), in clause (a), for the words "twenty or more persons are employed," the words "twenty or more persons are employed on any day in the preceding twelve months" shall be substituted.

19 of 1952.

Due to the present provision contained in clause (a) of sub-section (3) of section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 regarding the applicability of the provisions of the Act to an industry, many establishments escape from the purview of this Act and the employees are not getting the provident fund benefit. This amendment became necessary to plug that lacuna and to see that the establishments in which twenty or more persons are employed on any day in the preceding twelve months are also brought under this Act.

New Delhi; April 11, 1979. P. RAJAGOPAL NAIDU

BILL No. 68 of 1979

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

Short title.

- 1. This Act may be called the Constitution (Amendment) Act, 1979.
- Amendment of article 334.
- 2. In article 334 of the Constitution, for the words "thirty years", the words "fifty years" shall be substituted.

The reservation of constituencies of Lok Sabha and Legislative Assemblies for Scheduled Castes and Scheduled Tribes was guided by the fact that since persons belonging to these castes and tribes were backward in every respect, socially, economically and educationally, they will fall far behind in every walk of life unless they are given special opportunities to bring them at par with other sections of society.

Lok Sabha and Legislative Assemblies are the chief source from where all legislation originates. If the reservation of constituencies is discontinued, candidates belonging to scheduled castes and scheduled tribes cannot win election in general contest. Since they are backward from every point of view, it is necessary to continue this reservation.

Keeping this in view, it is necessary to extend the reservation of Lok Sabha Assembly constituencies for them till 2000 A.D. Necessary amendment may be made in the Constitution.

New Delhi; April 12, 1979. RAM VILAS PASWAN

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend article 334 of the Constitution to provide for the continuance of the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination for a further period of twenty years from 26th January, 1980. It is estimated that the recurring expenditure on the salaries and allowances and other concessions, of the two representatives of the Anglo-Indian community in the House of the People under article 331, will be of the order of Rs. 50,000 per annum.

2. There will be no non-recurring expenditure.

BILL No. 70 of 1979

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1979.

Short title and commencement.

- (2) It shall be deemed to have come into force on the twenty-sixth day of January, 1960.
- 2. After Part XIII of the Constitution, the following Part shall be inserted, namely:—

Insertion
of new
Part
XIIIA.

"PART XIII A CEILING ON CAPITAL

307A. There shall be a ceiling of one crore of rupees on the capital which can be held by an individual including the capital held by him in a foreign country.

Ceiling on capital.

Explanation I.—"capital" means the sum total of the value of assets in any form of an individual including the value of his interest in any form

in any trade carried on by any individual, firm, company, whether private or public, body corporate, co-operative society or carried on by any other form of organisation.

Explanation II.—"individual" means any person including the members of his family.

Explanation III.—"trade" means any trade, business, industry, profession or occupation relating to the production, supply, distribution or control of goods and includes the provision of any service of any description.

Law to give effect to provisions of this Part.

307B. Parliament shall make law, within a period of one year from the date of enactment of the Constitution (Amendment) Act, 1979, to give effect to the provisions of this Part.".

Concentration of economic power in the hands of certain individuals becomes the most powerful instrument of exploitation. This economic strength influences our entire socio-political system causing great pressure on the administrative set-up through the present system of elections. Our elections are largely influenced by the money power. At the same time, present system of journalism is also controlled and influenced by the monopoly houses to safeguard their interests. It affects the powers of thinking of our people and misguides them against their own interest which is sometimes not realised by the innocent masses of our people. That is why, it is essential to amend the Constitution in order to put a ceiling on the capital of an individual.

HARIKESH BAHADUR

New Delhi; April 16, 1979.

45 of

1860.

BILL No. 72 of 1979

A Bill to provide for abolition of Capital Punishment in India.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:---

Short title.

1. This Act may be called the Abolition of Capital Punishment Act, 1979.

Abolition of capi2. Capital punishment is hereby abolished in India.

tal punishment. Maximum

punish-

any offence.

ment for

3. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force, maximum punishment for any offence shall not be more than imprisonment for life.

All life is sacred and precious. So, one must imbibe reverence for life. Vengefulness is waste of life.

Human beings are but born once, and they cannot be brushed aside and finished by any legal contrivance or a statutory dispensation. No state can arrogate to itself a legal right to do away with the life of a human being.

Crimes, thefts, murders, assaults, dacoity, etc., are undoubtedly grave offences against Human Life. But they are interwoven with the social, economic, cultural, political and behavioural life-pattern of the community. And such ugly and objectionable deeds are directly the result of an insecure and indigent human society, bereft of conditions of equilibrium and equity. The wrong-doer or the criminal is, therefore, to be treated as a mental case and be dealt with charitably and sympathetically without, of course, any misplaced leniency or unwarranted latitude. The emphasis, moreover, has to be on reformation and education rather than on rejection and retribution.

All forms of a death sentence are agonizing and cruel. They do not cure the disease nor do they solve the problem. Human and universal experience shows that physical punishments scarcely ensure obedience to the different laws and rules and regulations designed for the good of community and welfare of society.

It must also be remembered that the human machinery set up for the purpose of punishing the guilty is bound to be full of inbuilt short-comings. Persons inflicting punishments including death sentence are liable to err and the evidence on which a sentence is awarded could be misleading. A case of miscarriage of justice in the event of death sentence having been executed can never be repaired, for life once ended cannot be brought back. Thus, to keep an offender alive as a prisoner would in any case be erring on the safe side.

Capital punishment has been abolished in several countries of the world, and the experience so far does not indicate any appreciable growth in crime or murder.

Then, why should we in India grudge in this matter, especially when capital punishment has never been encouraged by our centuries old traditions, morality and ethics?

Death sentence can never be indispensable. What is important to note is that long terms of imprisonment are equally effective. And, what is more, life sentence leaves an opportunity both for reformation, almost a rebirth, of the criminal and a remedy for a possible miscarriage of justice.

Hence this Bill.

NEW DELHI;

April 17, 1979.

P. G. MAVALANKAR.

AVTAR SINGH RIKHY,

Secretary.